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IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA

2007 JUNE 1 P 4 37

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WILLIE C. MOODY,
PLAINTIFF,

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

V.

* CASE NO. 2:07cv485-WHA

UNITED STATES OF AMERICA,

DEFENDANT.

*
*
*
*
*

COMPLAINT/MOTION FOR RETURN OF PROPERTY

Comes now the plaintiff, Willie C. Moody, by counsel, and submits the following:

INTRODUCTION

1. This is an action for the return of personal property seized by the Government pursuant to a search warrant in Montgomery, Montgomery County, Alabama.

2. This Court has jurisdiction pursuant to 5 USC 702-706, 28 USC 1331, Rule 41(g), Federal Rules of Criminal Procedure, 18 USC 983 and or the Courts equitable and supervisory power.

3. There is no known pending civil or criminal proceeding regarding this matter.

4. The plaintiff, Willie C. Moody, is a resident citizen of the United States and of Montgomery County, Alabama and the Middle District of Alabama, and is over the age of eighteen years.

5. The Federal Bureau of Investigation is a Governmental agency of the defendant United States of America.

FACTS

6. On or about June 2, 2005, a search and seizure was conducted of plaintiff's residence located at 336 Dee Drive, Montgomery, Alabama. The search was purportedly pursuant to a search warrant issued to an Officer of the Montgomery Police Department by the Montgomery Municipal Court. Plaintiff has previously requested of the Montgomery Municipal Court a copy of the warrant and affidavit in support of same but to date has not received a copy. During the course of the search of plaintiff's residence certain personal property was seized, including but not limited to, Forty Eight Thousand Forty Dollars (\$48,040.00) in U.S. Currency. See property inventory attached as Exhibit A.

7. On or about June 2, 2005, a search and seizure was conducted of plaintiff's business known as Moody's Sports Bar located at 553 North Eastern Blvd., Montgomery, Alabama. The search was pursuant to a search warrant issued to an Officer of the Montgomery Police Department by the Montgomery Municipal Court. A copy of the search warrant is attached as Exhibit B. Plaintiff has previously requested of the Montgomery Municipal Court a copy of the affidavit in support of same but to date has not received a copy. During the course of the search of plaintiff's business certain personal property was seized. See property inventory attached as Exhibit C.

8. Subsequent to the search and seizure the plaintiff

received a notice from the United States Government dated July 28, 2005 that Forty Four Thousand Forty Dollars (\$44,040.00) of the U. S. Currency seized at plaintiff's residence located at 336 Dee Drive, Montgomery, Alabama had been seized by the Federal Bureau of Investigation, that said property was seized as a Forfeiture and invited plaintiff to contest same by filing a claim of ownership by September 1, 2005. See notice attached as Exhibit D. Plaintiff filed a timely claim of ownership on August 29, 2005. See claim attached as Exhibit E.

9. Plaintiff has never received a notice from the Government as to whether the Government seeks forfeiture of the remaining property seized, and does not have personal knowledge whether the property is in possession of the United States Government or the State of Alabama. Therefore, out of an abundance of caution plaintiff has filed contemporaneously in the Circuit Court of Montgomery County, Alabama, a motion for return of property.

10. The amount of personal property seized from plaintiff is significant, the defendant has withheld same for an unreasonable amount of time and same has caused irreparable harm to plaintiff.

CLAIM FOR RELIEF

11. Rule 41(g), F.R.Crim.P., provides that a person who is deprived of his property or who is subject to an unlawful search and seizure has the right to request return of his

property. Plaintiff contends that the seizure of his property has violated his rights pursuant to Fourth and Fifth Amendments to the U. S. Constitution. Further, plaintiff contends that pursuant to 18 USC 983(a)(3) he is entitled to the return of his property for failure of the Government to timely seek judicial forfeiture or otherwise seek forfeiture of said property.

12. Plaintiff requests the Court to order the Defendant to return to Plaintiff all property seized from Plaintiff, and further requests that the Court suppress the property seized as evidence from being used in any further or different proceedings against Plaintiff or said property.

13. Plaintiff also seeks this Court to exercise its equitable and or supervisory power to order the said property be returned to plaintiff.

14. Plaintiff seeks such other and further relief to which he may be entitled, including but not limited to costs.

Respectfully submitted this 1st day of June, 2007.

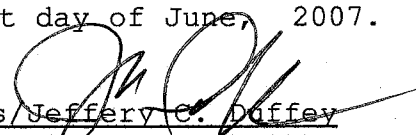

s/ Jeffery C. Duffey
JEFFERY C. DUFFEY
Attorney for
Willie C. Moody
600 South McDonough Street
Montgomery, AL 36104
Phone: 334-834-4100
Fax: 334-834-4101
email: jcduffey@aol.com
Bar No. ASB7699F67J

EXHIBIT A



NARCOTICS & INTELLIGENCE BUREAU EVIDENCE/PROPERTY INVENTORY



The following item(s) were seized/received by the Montgomery Police Department subsequent to a: (circle one) **SEARCH WARRANT, CONSENT SEARCH, or ADMINISTRATIVE INVENTORY**. These items were inventoried by Det. R.J. STEELMAN #012, a member of the Narcotics and Intelligence Bureau.

ADDRESS OBTAINED: 336 DEE DR

DATE: 6/2/05

TIME OF ENTRY: 1200

TIME OF EXIT: 1458

PAGE 1 of 1

ITEM#	DESCRIPTION OF ITEM SEIZED OR RECEIVED	LOCATION ITEM FOUND	TIME	OFFICER
1	#4240 IN ASSORTED U.S. CURRENCY	MASTER BEDROOM IN COTTON DESK DRAWER	1230	WRH 436
2	A. FINANCIAL DOCUMENTS, ACCOUNT RECORDS	MASTER BEDROOM ON DESK		WRH 436
	B. FINANCIAL DOCUMENTS, ACCOUNT RECORDS			WRH 436
	C. GAMBLING RECORDS, DOCUMENTS			WRH 436
	AND VARIOUS ASSORTED DOCUMENTS			WRH 436
	D. ASSORTED DOCUMENTS			WRH 436
3	TELEPHONE w/ CALLER I.D.	MASTER BEDROOM	1	WRH 436
4	COMPAQ DESKTOP COMPUTER	MIDDLE ROOM	1210	RJS 072
	SER# 6843CCP4B004		1215	RJS 072
5	ASSORTED DOCUMENTS	MIDDLE ROOM DESK	1215	RJS 072
6	DAVIS INDUSTRIES 380 CAL #AP201577	DRESSER IN MASTER BEDROOM	1330	WRH 436
	MAG. 5 ROUNDS / BOX OF 50 AMMO			
7	#43800 IN ASSORTED U.S. CURRENCY	IN SAFE FOUND IN MASTER BEDROOM	1345	WRH 436
8	ASSORTED PAPER DOCUMENTS	IN SAFE FOUND IN MASTER BEDROOM	1345	WRH 436
9	BROWN BRIEFCASE w/ ASSORTED DOCUMENTS	IN MASTER BEDROOM	1350	RWC 806
10	ASSORTED PAPER DOCUMENTS, PHOTOS	IN MASTER BEDROOM	1400	RWC 306
11	ASSORTED DOCUMENTS	IN KITCHEN CAB IN	1430	RWC 306

By signing below I certify that I have received a copy of the inventory of item(s) as identified above.

SIGNATURE OF RECEIVER: REFUSED TO SIGN

DATE & TIME: 6/2/05 @ 1458

I certify that the above inventory accurately reflects the items received or removed from the listed location.

SIGNATURE OF EVIDENCE OFFICER: R.J. Steelman #012 DATE & TIME: 6/2/05 @ 1458

EXHIBIT B

SEARCH WARRANT

STATE OF ALABAMA)
)
COUNTY OF MONTGOMERY)
)
CITY OF MONTGOMERY) DOCUMENT SEARCH WARRANT

TO ANY SHERIFF, DEPUTY, AND/OR MUNICIPAL OFFICER OR CHIEF OF POLICE:

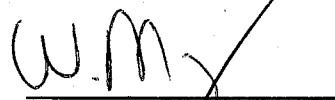
Proof of affidavits, which are attached hereto and incorporated by reference, having been made this day before me, by Detective P.B. Hayes #871, of the Special Operations Division, Narcotics Bureau, with the Montgomery Police Department. You are hereby commanded to make immediate search of:

553 N. EASTERN BOULEVARD, (MOODY'S SPORTS BAR) MONTGOMERY, ALABAMA, ANY PERSON, OUTBUILDINGS AND VEHICLES LOCATED WITHIN THE CURTILAGE THERE OF.

for the following property U.S. Currency, records, books, notes ledgers and/or items listed in Attachment I.

And if you find the same or any part thereof, to bring it forthwith before me, at my office at Municipal Court, Montgomery County, Alabama; or if the said warrant is issued for violation of a state law return the same to any State Court.

Dated this 1ST 2ND day of JUNE, 2005.



JUDGE/COURT MAGISTRATE
MUNICIPAL COURT
CITY OF MONTGOMERY
MONTGOMERY COUNTY
MONTGOMERY, ALABAMA

EXHIBIT C



NARCOTICS & INTELLIGENCE BUREAU EVIDENCE/PROPERTY INVENTORY



The following item(s) were seized/received by the Montgomery Police Department subsequent to a: (circle one) **SEARCH WARRANT, CONSENT SEARCH, or ADMINISTRATIVE INVENTORY.** These items were inventoried by K.C. Bentley, #1079, a member of the Narcotics and Intelligence Bureau.

ADDRESS OBTAINED: 553 N. Eastern Boulevard DATE: 6-2-2005

TIME OF ENTRY: 12:35 hours TIME OF EXIT: 1557 hours PAGE 1 of 5

ITEM#	DESCRIPTION OF ITEM SEIZED OR RECEIVED	LOCATION ITEM FOUND	TIME	OFFICER
1	Ampad legal pad containing dates and unknown items sold	In office on desk	13:03	KCB#1079
2	Assorted white and orange papers containing bets on various races	In office on filing cabinet	13:17	KCB#1079
3	IBM think pad laptop computer with crack on top left corner, SER/AA-FTBM200/05 and IBM AC power cord and compaq mouse	In office on desk	13:24	SJE #221 KCB#1079
4	Hewlett Packard Office Jet fax machine, SER/MY4B4383R3 with power cord, data cord and telephone line and manual	In office on filing cabinet	13:27	SJE #221
5	7 VHS video cassettes	In office on 2 nd shelf down next to monitor	13:35	SJE #221
6	13 VHS video cassettes	In office on 1 st shelf (top) next to VCR	13:37	SJE #221
7	White paper containing amount of money made and spent in April 2004	In office on desk to right	13:52	KCB#1079

By signing below I certify that I have received a copy of the inventory of item(s) as identified above.

SIGNATURE OF RECEIVER: left on bar DATE & TIME: 06-02-05 1557 hours

I certify that the above inventory accurately reflects the items received or removed from the listed location.

SIGNATURE OF EVIDENCE OFFICER: K.C. Bentley, #1079 DATE & TIME: 06-02-05 1557 hours



NARCOTICS & INTELLIGENCE BUREAU EVIDENCE/PROPERTY INVENTORY



The following item(s) were seized/received by the Montgomery Police Department subsequent to a: (circle one) **SEARCH WARRANT, CONSENT SEARCH, or ADMINISTRATIVE INVENTORY**. These items were inventoried by K. C. Bentley #1079, a member of the Narcotics and Intelligence Bureau.

ADDRESS OBTAINED: 553 N. Eastern Boulevard

DATE: 6-2-05

TIME OF ENTRY: 12:35 hours

TIME OF EXIT: 15:57 hours

PAGE 2 of 5

ITEM#	DESCRIPTION OF ITEM SEIZED OR RECEIVED	LOCATION ITEM FOUND	TIME	OFFICER
8	LaCie external CD drive, SER/103660;	In office on floor to	13:56	SJE#221
	Generic USB FDD external floppy disk	left side of desk		
	drive, SER/000026500; 3 data cables, 4			
	floppy disks and instruction manual			
9	Assorted gaming paper documents	In office, in desk, in	14:07	SJE#221
		bottom righthand drawer		
		in safe		
10	Digital scale, model FX-100	In office, in desk, in	14:09	SJE#221
		top lefthand drawer		
11	Single Entry ledger containing records	In office on top of	14:18	PBC#466
	of persons playing pool	filing cabinet on north		
		wall behind desk		
12	Blue three ring binder containing	In office on top of	14:20	PBC#466
	assorted papers with tax and bank	filing cabinet on north		
	statements	wall behind desk		
13	Manila envelope containing assorted	In office, in desk, in	14:26	PBC#466
	paper documents containing receipts	righthand bottom drawer		

By signing below I certify that I have received a copy of the inventory of item(s) as identified above.

SIGNATURE OF RECEIVER: left on bar

DATE & TIME: 06-02-05 15:57 hours

I certify that the above inventory accurately reflects the items received or removed from the listed location.

SIGNATURE OF EVIDENCE OFFICER: K. C. Bentley #1079

DATE & TIME: 06-02-05 15:57 hours



NARCOTICS & INTELLIGENCE BUREAU EVIDENCE/PROPERTY INVENTORY



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ADDRESS OBTAINED: 553 N. Eastern Boulevard DATE: 6-2-05

TIME OF ENTRY: 12:35 hours TIME OF EXIT: 15:57 hours PAGE 3 of 5

ITEM#	DESCRIPTION OF ITEM SEIZED OR RECEIVED	LOCATION ITEM FOUND	TIME	OFFICER
Cont'd 13	from March 2005 for business purchases			
14	Manila envelope containing assorted paper documents containing tax records and bank deposit slips (carbon copies)	In office, in desk, in righthand bottom drawer	14:29	PBC#466
15	boxes of assorted tax documents	In room adjoining office to the south on shelves end of the business	14:31	SJE#221
16	1 VHS video cassette	In office, on top of filing cabinet on north wall behind desk	14:47	PBC#466
17	The Official Offshore Football Betting Guide	In office on top of filing cabinet on north wall behind desk	14:50	PBC#466
18	White assorted paper documents containing lists of persons playing pool and charges for pool games	In office lying in chair on left in front of desk		
19	White assorted paper documents con-	In office on desk	15:00	SJE#221

By signing below I certify that I have received a copy of the inventory of item(s) as identified above.

SIGNATURE OF RECEIVER: left on bar DATE & TIME: 06-02-05 15:57 hours

I certify that the above inventory accurately reflects the items received or removed from the listed location.

SIGNATURE OF EVIDENCE OFFICER: K.C. Bentley #1079 DATE & TIME: 06-02-05 15:57 hours



NARCOTICS & INTELLIGENCE BUREAU EVIDENCE/PROPERTY INVENTORY



The following item(s) were seized/received by the Montgomery Police Department subsequent to a: (circle one) **SEARCH WARRANT, CONSENT SEARCH, or ADMINISTRATIVE INVENTORY.** These items were inventoried by K.C. Bentley, #1079, a member of the Narcotics and Intelligence Bureau.

ADDRESS OBTAINED: 553 N Eastern Boulevard

DATE: 6-2-05

TIME OF ENTRY: 12:35 hours TIME OF EXIT: 15:57 hours PAGE 4 of 5

ITEM#	DESCRIPTION OF ITEM SEIZED OR RECEIVED	LOCATION ITEM FOUND	TIME	OFFICER
Cont'd 19	taining bets on various races	on clipboard	15:00	SJE#221
20	Grey 3 ring binder containing betting sheets	In office on desk on north side of room	15:11	SJE#221
21	Assorted photographs	Under cash register at bar	15:12	SJE#221
22	Telephone Directory	In office on desk	15:17	PBC#466
23	Purple Mead organizer with ring binder	In room adjoining offices to the south end of the business on 2nd shelf on east wall	15:20	KCB#1079
24	Cingular cellular telephone bill	In office on desk	15:25	KCB#1079
25	Premium Sports Schedule Football book	In office on desk on north side of room	15:27	KCB#1079
26	White assorted paper documents containing bets on various races	In office on desk on north side of room	15:37	KCB#1079

By signing below I certify that I have received a copy of the inventory of item(s) as identified above.

SIGNATURE OF RECEIVER: left on bar DATE & TIME: 06-02-05 1557 hours

I certify that the above inventory accurately reflects the items received or removed from the listed location.

SIGNATURE OF EVIDENCE OFFICER: K.C. Bentley #1079 DATE & TIME: 06-02-05 1557 hours

TIME OF ENTRY: 12:35 hours TIME OF EXIT: 15:57 hours PAGE 5 of 5

[illegible]

SIGNATURE OF EVIDENCE OFFICER: K.C. Bentley #1079 DATE & TIME: 06-02-05 15:57 hr

EXHIBIT D



Federal Bureau of Investigation

Washington, D.C. 20535

July 28, 2005

Certified, Return Receipt

Mr. Willie C Moody
336 Dee Drive
Montgomery, AL 36108

Dear Mr. Moody:

Factual and Legal Basis for Seizure

On June 2, 2005, property was seized by the Federal Bureau of Investigation (FBI) at Montgomery, Alabama for forfeiture for violation of PROHIBITION OF ILLEGAL GAMBLING BUSINESSES. The property was appraised at \$44,040.00 and is described as follows:

\$44,040.00 U.S. Currency from master bedroom in residence
Asset Id Number: 05-FBI-003416
Seizure Number: 3490050014

This forfeiture is being conducted pursuant to Title 18, United States Code (U.S.C.), Section 1955(d) and the following additional federal laws: 19 U.S.C. Sections 1602-1619 and 18 U.S.C. Section 983.

You may contest the seizure and forfeiture of this property and/or petition to the FBI and request a pardon of the forfeited property.

To Contest the Forfeiture

If you want to contest the seizure or forfeiture of the property in court, you must file a claim of ownership with the FBI by September 1, 2005. The claim is filed when it is received by the FBI Forfeiture Paralegal Specialist of the FBI Field Division mentioned below except in cases of pro se incarcerated individuals as otherwise provided by law. The claim need not be made in any particular form. The claim shall identify the specific property being claimed and state the claimant's interest in such property. Documentary evidence supporting claimant's interest in the property may help substantiate the claim, **but is not required**. The claim must be made under oath, subject to penalty of perjury. **A frivolous claim may subject the claimant to a civil fine equal to ten (10) percent of the value of the forfeited property but in no event shall the fine be less than \$250 or greater than \$5,000.**

To Request Release of the Property

Upon the filing of a claim a claimant, pursuant to 18 U.S.C. 983 (f), may request release of the seized property during pendency of forfeiture proceedings due to hardship. **Property not subject to release under this provision includes: contraband, currency, or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a legitimate business; property to be used as evidence of a violation of law; property by reason of design or other characteristic is particularly suited for use in illegal activities; or property likely to be used to commit additional criminal acts if returned to the claimant.**

Mr. Moody

To Request a Pardon of the Property

In addition to or in lieu of filing a claim, if you want to request a pardon of the forfeited property, submit a petition for remission or mitigation of the forfeiture to the FBI Field Division identified below. The petition must include proof of your ownership interest in the property or proof that you were a victim of the offense underlying the pending forfeiture, or a related offense, and the facts and circumstances which you believe justify a return of the property, a return of your interest in the property, or a return of part of the property. For the regulations pertaining to remission or mitigation of the forfeiture see 28 C.F.R. Sections 9.1-9.9. The criteria for requesting remission of the forfeiture are found at 28 C.F.R. Section 9.5(a). The criteria for requesting mitigation of the forfeiture are found at 28 C.F.R. Section 9.5(b). You should file the petition within thirty (30) days following the receipt of this mailed notice of seizure. The Ruling Official for all petitions for remission or mitigation in administrative forfeiture cases is the Forfeiture Counsel, who is the Unit Chief, Legal Forfeiture Unit, Office of the General Counsel, Federal Bureau of Investigation. The Ruling Official for all petitions for remission or mitigation in judicial forfeiture cases is the Chief, Asset Forfeiture and Money Laundering Section, Criminal Division, Department of Justice.

Where to Submit Correspondence

The Seizure Number 3490050014 has been assigned to this forfeiture action. Use this number to identify the property when submitting a claim, petition or other correspondence to the FBI.

Submit all documents to this FBI Field Division:

SPECIAL AGENT IN CHARGE
FEDERAL BUREAU OF INVESTIGATION
200 NORTH ROYAL STREET
MOBILE, AL 36602-3930

ATTENTION: FORFEITURE PARALEGAL SPECIALIST
251-438-3674

Sincerely Yours,



Mark Ukleja
Unit Chief
Forfeiture and Seized Property Unit
Finance Division

NOTE: All telephone inquiries should be directed to the aforementioned FBI Field Division to the attention of the Forfeiture Paralegal Specialist. **Please do not send any written correspondence to Mark Ukleja.**

EXHIBIT E

August 29, 2005

Special Agent In Charge
Federal Bureau of Investigation
200 North Royal Street
Mobile, AL 36602-3930

VIA REGULAR MAIL, POSTAGE
PREPAID AND CERTIFIED MAIL
No. 7003-0506-0000-1340-6525

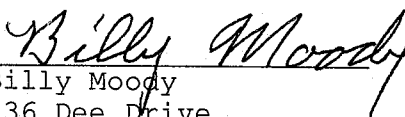
Re: Asset Id: 05-FBI-003416
Seizure No. 3490050014
Property: \$44,040.00 U.S. Currency
Seizure Date: 06-02-05

Dear Sir/Madam:

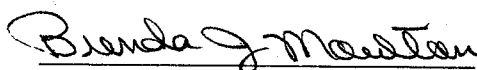
Please be advised that I hereby claim ownership of the above property consisting of \$44,040.00 in U.S. Currency, and I contest the forfeiture of the seized property. The seized property was taken from my residence.

This document is made under oath, subject to penalty of perjury.

Yours truly,


Billy Moody
336 Dee Drive
Montgomery, AL 36108

Sworn to and subscribed before me on this the 29th day of August, 2005.


Notary Public

c: Jeffery C. Duffey
Law Office of Jeffery C. Duffey
600 South McDonough Street
Montgomery, Alabama 36104
Phone: 334-834-4100
Fax: 334-834-4101